

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMANUEL DELACRUZ, *on behalf of himself
and all other persons similarly situated,*

Plaintiff,

v.

FIVE BELOW, INC.,

Defendant.

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No. 19-CV-10294 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

On June 29, 2020, the Court issued opinions in *Tucker v. Whole Foods Market Group, Inc.*, No. 19-CV-9842 (RA) (S.D.N.Y. June 29, 2020), and *Thorne v. Boston Market Corp.*, No. 19-CV-9932 (RA) (S.D.N.Y. June 29, 2020). In both cases, the plaintiffs sought a ruling that Title III of the Americans with Disabilities Act (the “ADA”), 42 U.S.C. § 12181 *et seq.*, requires public accommodations to offer Braille-embossed—or otherwise accessible—gift cards. In *Tucker*, the Court concluded that the allegations were insufficient to plausibly allege an intent to return to the public accommodation at issue and thus the plaintiff lacked standing to bring the action. And in *Thorne*, after finding that the plaintiff’s allegations were sufficient to confer jurisdiction, the Court held that the ADA does not require public accommodations to offer Braille-embossed—or otherwise accessible—gift cards.

This action presents a similar question regarding the applicability of the ADA to gift cards. As such, the parties are ordered to review the Court’s holdings in *Tucker* and *Thorne* to determine how they might affect this case. No later than July 20, 2020, the parties shall file a joint status letter, informing the Court of their position on this question and proposing next steps.

SO ORDERED.

Dated: July 6, 2020
New York, New York



Ronnie Abrams
United States District Judge